

05-1707
Locally Assessed Property Tax
Signed 07/13/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	05-1707
v.)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF IRON COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	Johnson
Respondent.)		

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER (by telephone)
For Respondent: RESPONDENT REPRESENTATIVE 1, Iron County Assessor
RESPONDENT REPRESENTATIVE 2, from the Iron County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on June 27, 2006.

At issue is the fair market value of the subject property as of January 1, 2005. The subject property is a cabin located in the (X) near CITY in Iron County, Utah. For the 2005 tax year, the County Assessor assessed the property at \$\$\$\$\$, which the Iron County Board of Equalization ("County BOE") sustained.

The subject property consists of a 0.45-acre lot and a cabin with 660 square feet on the main floor and 210 square feet in a loft. The cabin was built in 1968 and is of “board and batten” construction. Although there is a sink in the cabin, there is no toilet or bathing facility in the structure.

The Petitioner estimated the subject’s fair market value at \$\$\$\$\$, explaining that the cabin is “run down,” that it has no electricity, running water, or insulation, and that its foundation is crumbling. The Petitioner also pointed out that the wood stove that provides heat for the property is barely adequate and that the recent placement of trailers within view of the subject are an eyesore that decreases the value of the property. Furthermore, the Petitioner noted that the County’s 2005 assessed value was more than 22% higher than its assessed value for the 2004 tax year and argued that such appreciation is inappropriate for a property, like the subject, that is not in an urban area. The Petitioner claimed that few cabins of similar quality have sold in the CITY area, as there is little demand for such properties.

The County proffered an appraisal in which it estimated the subject’s value to be \$\$\$\$\$ as of the lien date. The appraisal was prepared by RESPONDENT REPRESENTATIVE 2, who included both a cost approach and a market approach in her report. For her cost approach, RESPONDENT REPRESENTATIVE 2 estimated the subject’s value at of \$\$\$\$\$ after estimating the land’s value to be \$\$\$\$\$ and using cost data from a “commercial costing program used by Iron County” to estimate the improvements’ value at \$\$\$\$\$. For her market approach, RESPONDENT REPRESENTATIVE 2 compared the subject to three comparables that sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. RESPONDENT REPRESENTATIVE 2 adjusted the three comparables and determined that the subject’s value would range between \$\$\$\$\$ and \$\$\$\$\$. After correlating the values shown by both approaches, RESPONDENT REPRESENTATIVE 2 estimated the subject’s value to be \$\$\$\$\$.

The Petitioner stated the he does not believe that the sales the County used in its market approach are comparable to the subject. He proffered that he is familiar with the County's Comparable #1 and that it is not comparable to his property, as it has plumbing and his property does not. RESPONDENT REPRESENTATIVE 2 countered that Comparable #1 had a leaky roof and understood that interior water damage to the walls that existed at the time of the sale cost approximately \$\$\$\$ to repair. Although RESPONDENT REPRESENTATIVE 2 stated that she had not seen the interior damage to this comparable, she saw signs of the damage on the exterior.

The Petitioner also argued that Comparable #2 is larger than the 369 square feet shown by the County in its report. RESPONDENT REPRESENTATIVE 2, however, confirmed that the 369 square foot size shown in her appraisal for this comparable is correct. Lastly, The Petitioner contended that Comparable #3 is a superior cabin that should not be compared to his own. RESPONDENT REPRESENTATIVE 2 stated that two separate cabins, at least one of which was built in 1965, were combined when the cabin on Comparable #3 was "built" in 1986.

Finally, Petitioner argued that the foundation of the cabin was crumbling and needed to be repaired. The responded stated that she had personally inspected the subject property and the comparable sales, and did not observe any excessive deterioration.

APPLICABLE LAW

Utah Code Ann. §59-2-1006(1) provides that "[a]ny person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission"

Any party requesting a value different from the value established by the County BOE has the

burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE to the amount proposed by the party. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

The Commission is not convinced by the Petitioner's argument that a rural cabin would not appreciate more than 22% in one year. A comparison of sales from one year to the next would be required to show that the rate of appreciation is different. Furthermore, even were the rate of appreciation between January 1, 2004 and January 1, 2005 known for a property such as the subject, there is no evidence to show that the subject's \$\$\$\$ assessed value for the 2004 tax year was correct. For these reasons, the Commission finds this argument unpersuasive.

The Petitioner is correct, however, that his cabin has some features that may be inferior to the features of the comparables used in the County's market approach and which sold in the low \$\$\$\$ range, particularly as the subject property does not have indoor plumbing or bath, while the comparables do. The Commission also questions the County's downward adjustment of \$\$\$\$ to account for this difference between the subject and the comparables in its market approach, as this amount seems very conservative for such an important feature. While an adjustment may appear negligible, the Commission believes it is mandatory to correct the assessor's record.

The Commission is also concerned that the \$\$\$\$ adjustment for condition that the County made to Comparable #1 may be excessive. Related to this, we are equally concerned that the condition of the foundation may not have been properly accounted for. However, the Petitioner was unable to refute the assessor's observations and analysis. He presented no analysis of his own as to the impact on value that the condition of his property might have. Furthermore, the evidence proffered at the Initial Hearing shows that no cabin property near the subject has sold for less than \$\$\$\$. Given this fact, the Commission is not convinced whether any cabin property, whatever its features and condition, would sell for less than \$\$\$\$. In addition, even were the Commission convinced that the subject would sell for a lesser amount because of its features and condition, no credible evidence of what that amount might be has been proffered.

Nonetheless, an adjustment is required to correct the discrepancy on the bathroom. There is no evidence in the record of how such an adjustment would affect the cost approach, which was relied upon to set the initial assessment. The Commission will therefore make the adjustment based on the comparable sales approach. The assessor made a \$\$\$\$ adjustment from a full bath to a half bath on comparables 1 and 2, which are most similar to the subject. We infer from this, that mathematically, adjusting from a full bathroom to no bathroom would be another \$\$\$\$. The Commission finds that this is the appropriate adjustment. We find further, that since this adjustment was derived from the comparable sales analysis, that the valuation should also be based on this approach. The property closest in comparability to the subject in all aspects is comparable number one. The adjusted value was \$\$\$\$. The adjustment for the correction is \$\$\$\$. While this value is within 5% of the original assessment, and normally may not warrant any change, the Commission believes it is required to make a factual correction.

DECISION AND ORDER

Appeal No. 05-1707

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property is \$\$\$\$ for the 2005 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2006.

Marc B. Johnson
Commissioner

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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